

# **TITLE 312 NATURAL RESOURCES COMMISSION**

## **Emergency Rule LSA Document #12-119(E)**

### **DIGEST**

Temporarily adds noncode provisions to amend [312 IAC 6.2](#) to assist with implementation of Article 4 of [IC 14-25-15-1](#) pertaining to water management and regulation under the Great Lakes-St. Lawrence River Basin Water Resources Compact, to provide a voluntary conservation and efficiency program for water withdrawal facilities in the Great Lakes Basin of Indiana, and to provide mandatory conservation and efficiency programs for new and increased withdrawals, diversions, and consumptive uses. Effective April 1, 2012.

**SECTION 1. (a) The document implements and administers water conservation and efficiency measures under [IC 14-25-15](#).**

**(b) This document supplements [312 IAC 6.2](#) and LSA Document #11-677(E), [20111109-IR-312110677ERA](#).**

**(c) The document assists with the goal of the state of Indiana to promote and encourage environmentally sound and economically feasible water conservation measures by water users within the basin consistent with the Great Lakes-St. Lawrence basin water conservation and efficiency objectives set forth in Resolution 5.**

**(d) The document implements the following:**

**(1) A voluntary program for promoting water conservation and efficiency for any person with a water withdrawal facility in the basin of Indiana.**

**(2) A mandatory program for promoting water conservation and efficiency for a person with a water withdrawal facility that is subject to regulation under [IC 14-25-15](#) or rules adopted under [IC 14-25-15](#).**

**SECTION 2. (a) Definitions in Section 1.2 of [IC 14-25-15-1](#), [312 IAC 1](#), and [312 IAC 6.2](#) apply throughout this document.**

**(b) In addition to the definitions contained in subsection (a), the following definitions apply:**

**(1) "Basin" or "Great Lakes-St. Lawrence River basin" means the watershed of the Great Lakes and the St. Lawrence River upstream from Trois-Rivières, Québec, within the jurisdiction of the parties to the compact.**

**(2) "Basin of Indiana" means the portion of the basin located in the state of Indiana.**

**(3) "Best management practices" or "BMPs" means methods or techniques found to be the most effective and practical means in achieving an objective (such as preventing or minimizing water losses) while making the optimum use of available resources.**

- (4) "Compact" means the Great Lakes-St. Lawrence River Basin Compact described in [IC 14-25-15-1](#).
- (5) "Facility" means a water withdrawal facility.
- (6) "Resolution 5" refers to "Resolution #5--Adoption of Basin-Wide Conservation and Efficiency Objectives", which was adopted by the council on December 8, 2008.
- (7) "Water use audit" means a systematic framework for accurately measuring water use and water loss in a given system.
- (8) "Water withdrawal facility" refers to a system or process that:
  - (A) in the aggregate from all sources and by all methods, has the capability of withdrawing more than one hundred thousand (100,000) gallons of ground water, surface water, or ground and surface water combined, in one (1) day; or
  - (B) diverts.

SECTION 3. (a) This SECTION identifies and develops voluntary conservation and efficiency objectives in the basin of Indiana as anticipated by Resolution 5.

(b) Consistent with Section 4.2 of [IC 14-25-15-1](#), all facilities registered under [IC 14-25-7-15](#) are encouraged to consider and implement measures such as the following:

- (1) The development and submission to the division for comment of a water conservation and management plan as follows:
  - (A) Components may include:
    - (i) A description and quantification of current water use and reuse as identified by a water audit.
    - (ii) Water conservation goals.
    - (iii) Current and proposed metering activity.
    - (iv) Methods to control unaccounted water.
    - (v) Methods for water reuse.
    - (vi) Methods for leak detection and repair.
    - (vii) Other conservation or efficiency measures employed or considered.
  - (B) An implementation timeline for each component listed in clause (A).
  - (C) A monitoring plan that includes measures for adaptive management.
- (2) The implementation of best management practices developed by the department for the following use categories:
  - (A) Industrial and energy production.
  - (B) Irrigation.
  - (C) Public water supply.
  - (D) Rural and other.
- (3) The use of other recognized conservation and efficiency programs and information developed by the following:
  - (A) United States Environmental Protection Agency.
  - (B) American Ground Water Trust.
  - (C) Alliance for Water Efficiency.
  - (D) Indiana's Water Shortage Plan.
  - (E) Another governmental agency or nongovernmental organization.

**(4) Reporting participation in a water conservation and efficiency program. The report may include any of the following:**

**(A) Elements of the program.**

**(B) The resulting savings in water use. These savings may be quantified in any of the following terms:**

**(i) Gallons or liters.**

**(ii) Financial savings from reductions to any of the following:**

**(AA) chemical treatments for public water supply;**

**(BB) expenditures on infrastructure;**

**(CC) pesticides or herbicides; or**

**(DD) additives to irrigation water.**

**(C) Any other information supporting improved understanding of conservation and efficiency programs.**

**(5) Participation in department surveys and questionnaires that seek accurate and timely data regarding conservation and efficiency programs.**

**(c) The department shall make an annual assessment of the extent to which conservation and efficiency programs meet goals and objectives. The department shall provide the assessment:**

**(1) Annually to the council and the regional body.**

**(2) On the department's website and as otherwise practicable to the public.**

**SECTION 4. (a) This SECTION governs water conservation and planning as required, under [IC 14-25-15](#) or rules adopted under [IC 14-25-15](#), for a new or increased withdrawal, diversion, or consumptive use.**

**(b) As part of a permit application to the department, a person with a facility subject to decision making under the compact must include a water conservation plan that satisfies SECTION 3(b)(1) of this document.**

**(c) In addition to the requirements of subsection (b), an applicant for a new or increased diversion for public water supply must do each of the following:**

**(1) Document conservation and efficiency use of existing water supplies by providing analyses of community water use for the previous five (5) year period, including how water use has:**

**(A) Changed over time.**

**(B) Changed or is anticipated to change with the implementation of a conservation and efficiency program.**

**(2) Include a water-use reduction goal and methods proposed to measure attainment of the goal.**

**(3) Document the implementation of best management practices applicable to the facility.**

**(d) The department shall not approve an application for a new or increased diversion or withdrawal unless the applicant demonstrates adequately the ability to perform each of the following:**

- (1) Measurement of water use.**
- (2) Adoption of BMPs.**
- (3) Implementation of environmentally sound and economically feasible conservation and efficiency measures.**

**SECTION 5. (a) This SECTION applies to the review of conservation and efficiency objectives in the basin of Indiana.**

**(b) A modification to conservancy and efficiency objectives may result as a response to council review that is anticipated to occur every five (5) years.**

**(c) The department shall consider modifying conservation and efficiency objectives in its ongoing program implementation. A determination to modify objections shall be based on the following:**

- (1) New technologies.**
- (2) New patterns in water use.**
- (3) New resource demands and threats.**
- (4) An assessment of cumulative impacts under Section 4.15 of [IC 14-25-15-1](#).**

**SECTION 6. This SECTION applies to the commitment by the state of Indiana to promote environmentally sound and economically feasible measures such as the following:**

**(1) Measures to promote the efficient use of water as follows:**

**(A) Education and outreach on water efficiency directed to facilities registered under [IC 14-25-7-15](#).**

**(B) Regular dissemination of conservation information such as pieces, newsletters, updates, and similar communications.**

**(2) Identification and dissemination of best management practices and state of the art conservation and efficiency technology as follows:**

**(A) Surveys to identify current water use planning and conservation components implemented or planned by registered facilities.**

**(B) Education and outreach tailored to registered facilities in all use categories.**

**(C) Public listing of potential best management practices.**

**(D) Other methods reasonably designed to implement this subdivision.**

**(3) Assistance to facilities with the development and application of sound planning principles as follows:**

**(A) Documents and forms for voluntary management planning.**

**(B) Assistance with water auditing and plan development.**

**(C) Support for conservation planning, analyses, or modification.**

**(D) Other planning assistance.**

**(4) Identification of demand-side or supply-side measures or incentives as follows:**

**(A) Conservation pricing for public utilities.**

**(B) Promoting public education on conservation activities at all levels of water use.**

**(C) Developing a recognition program for "super conserver" awards to be posted publicly.**

**(D) Other measures and incentives reasonably designed to implement this subdivision.**

**SECTION 7. (a) This SECTION describes how the department shall measure the success of the voluntary water conservation and efficiency measures.**

**(b) The department shall determine, record, and report:**

- (1) The number of facilities for which voluntary conservation and efficiency planning is reported.**
- (2) The number of facilities for which documentation of conservation and efficiency programming is provided.**
- (3) Attendance at conservation and efficiency workshops.**
- (4) Other metrics designed to assist in gauging conservation and efficiency participation.**

**(c) A permit that is subject to SECTION 4 of this document shall contain standards for compliance and remedies for failures to comply with plans for water conservation and efficiency. The department shall develop metrics which do the following:**

- (1) Summarize compliance standards for new or increased withdrawals and diversions and for consumption uses.**
- (2) Document the frequency of noncompliance with the standards as summarized in subdivision (1).**
- (3) Describe the remedies required for noncompliance with the standards.**
- (4) Document the success or failure of remediation.**

**SECTION 8. SECTIONS 1 through 7 of this document take effect on April 1, 2012.**

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*LSA Document #12-119(E)*

*Filed with Publisher: March 12, 2012, 2:03 p.m.*

<http://www.in.gov/legislative/iac/20120328-IR-312120119ERA.xml.pdf>

*Errata Filed with Publisher: April 3, 2012, 1:32 p.m. LSA Document #12-119(AC). Under [IC 4-22-2-38\(g\)\(2\)](#), the [technical ]correction takes effect 45 days from the date and time filed with the Publisher.*

<http://www.in.gov/legislative/iac/20120418-IR-312120119ACA.xml.pdf>